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SENATE BILL 2739 By  
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HOUSE BILL 3059  
By Hargrove

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 52,  
Part 1, relative to business sensitive records of municipal  
utilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 7, Chapter 52, Part 1, is amended by  
adding the following as an appropriately designated section:

(a) If the competitive position of a municipal utility would be harmed by public  
disclosure and such public disclosure is not required of potential or actual competitors of  
such municipal utility, the capital plans, marketing information, and proprietary  
information of or in the possession of each such municipal utility shall be treated as  
confidential and shall not be open for inspection by members of the public.

(b) As used in this section:

(1) "Capital plans" means plans, feasibility studies, and similar research  
and information that will contribute to the identification of future business plans  
and capital investments of the municipal utility;

(2) "Marketing information" means marketing studies, marketing  
analyses, and similar research and information designed to identify potential  
customers and business relationships of the municipal utility;

(3) "Municipal" means a county, metropolitan government, or incorporated city or town of the state, and also includes any governing board of a county, metropolitan government or incorporated city or town of the state that has been created by statute, ordinance or resolution;

(4) "Proprietary information" means commercial or financial information which is used in the business of the municipal utility, and which gives the municipal utility an advantage or an opportunity to obtain an advantage over competitors who do not know, use or have access to such information;

(5) "Utility" means any electric generation system; electric distribution system; water storage or processing system; water distribution system; gas storage systems or facilities related thereto; gas distribution system; wastewater system; any services similar to any of the foregoing, and any other services now or subsequently authorized under this chapter.

(c) At that point in time when public disclosure would no longer harm the competitive position of the municipal utility, any records treated as confidential under subsection (a) shall be made available for inspection by members of the public in accordance with Tennessee Code Annotated Title 10, Chapter 7, Part 5.

(d) Notwithstanding the provisions of subsection (a), a business plan prepared and submitted to the State Director of Local Finance in accordance with Tennessee Code Annotated, Section 7-52-602, shall be available for inspection by members of the public.

(e) Nothing herein shall apply to prevent disclosure of:

(1) Records requested by an authorized representative of a federal, state or local law enforcement agency when acting in an official capacity;

(2) Records requested or required to be produced, subject to an appropriate protective order, by a subpoena or order issued by, through, or under

the auspices of a court or administrative agency of federal, state or local government; and

(3) Records requested for official use by state, federal or local authorities performing a federal, state or local function under the Constitution of the United States of America or the Constitution of the State of Tennessee or under any Tennessee statute, rule, regulation, ordinance or local law.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.